



**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 28, 2022
AT 6:30 P.M.**

1. CALL TO ORDER OF THE PLANNING COMMISSION REGULAR MEETING

Chair Aspinall called the regular meeting of the Upland Planning Commission to order at 6:30 p.m. in the Council Chambers of the Upland City Hall.

2. PLEDGE OF ALLEGIANCE

Chair Aspinall welcomed Jaylene Marotte to the Planning Commission. The pledge of allegiance was led by Commissioner Marotte.

3. ROLL CALL

Present: Chair Aspinall, Vice Chair Grahn, Commissioners Caldwell, Johnson, Marotte, Mayer, and Staton.

Absent: None.

Staff present: Development Services Director and Planning Commission Secretary Dalquest, Planning Manager Farris, Senior Planner Winter, Deputy City Attorney Maldonado, and Administrative Analyst Davidson.

4. APPROVAL OF MINUTES

It was moved by Vice Chair Grahn, seconded by Commissioner Staton, and carried on a vote of 5-0-2 with Commissioners Caldwell and Marotte abstaining, to approve the Minutes of the Planning Commission meeting of August 24, 2022.

5. COUNCIL ACTIONS

Development Services Director Dalquest indicated City Council met on September 12, 2022 and September 26, 2022.

Development Services Director Dalquest reported that the City Council held a public hearing on September 12, 2022 to consider Zoning Code Amendment No. ZA-22-0001 regarding smoke shop and massage therapy establishments. The item was continued to October 10, 2022 and staff was asked to increase the separation criteria for smoke shops from 1,000 feet to 2,000 feet, to determine whether the same criteria could be incorporated for massage therapy establishments, and to provide updated maps indicating the location of all existing facilities with the this buffer included so Council could review the impact.

Development Services Director Dalquest reported that the City Council held a public hearing on September 26, 2022, and approved the political sign ordinance.

6. FUTURE AGENDA ITEMS

Planning Manager Farris reported two future agenda items for the month of October; a special meeting scheduled for October 5, 2022, to review and make a recommendation

to the City Council regarding the 2021-2029 Housing Element, and the regular meeting on October 26, 2022, to review and make a recommendation to City Council regarding freeway signs regulations.

7. ORAL COMMUNICATIONS

Chair Aspinall opened oral communications. There being no remote or in-person speakers, Chair Aspinall closed oral communications.

8. PUBLIC HEARINGS

A. SPECIFIC PLAN AMENDMENT NO. 22-0001 (Continued from August 24, 2022)

Project Description: Consideration of a recommendation to the City Council to amend the Historic Downtown Upland Specific Plan in two areas: 1) to amend Table 5-1 (Permitted Land Uses) to prohibit storage uses and internet-only businesses that are not open to the public; and 2), to allow for and adopt regulations pertaining to outdoor displays for retail businesses. (Staff Planner: Joshua Winter)

CEQA Determination: The proposed amendment is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines §15601(b)(3), which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

Applicant: City of Upland

Appeal Period: There is no appeal period, the Planning Commission's decision is a recommendation to the City Council.

Senior Planner Winter presented the staff report, along with a PowerPoint Presentation which is on file in the Development Services Department, and reiterated the item was continued from the previous meeting to give staff additional time to prepare and evaluate an amendment.

The Planning Commission inquired about encroachment license agreements, their cost, insurance requirements, how long they are valid for and whether they can be revoked or revised; how much time after the amendment is passed and becomes effective that existing storage uses would have until they need to relocate; clarifications regarding locations where online and storage businesses would be prohibited; explored conditions that could be added to permits that prohibit businesses from displaying items that are not for sale, to prevent the cluttering of Downtown; and code enforcement presence in Downtown.

Senior Planner Winter stated the encroachment license permit is listed in the City's fee schedule and insurance is required; stated the time frame that illegal storage businesses have to relocate would depend on code enforcement; confirmed that all property owners within the Downtown Specific Plan area were notified of the public hearing; clarified that legally established businesses would be considered legally non-conforming uses subject to the provisions of the Municipal Code; clarified storefront display standards and ways to strengthen the City's power to regulate such displays; and indicated that code enforcement is very active in the downtown area.

Development Services Director Dalquest indicated not all businesses are legally established and explained that code enforcement could address the storage uses that were established without necessary approvals; clarified that a standard condition in the permit could state that displayed items would need to be made available for sale; and explained that encroachment licenses can be revoked.

Additionally, the Planning Commission inquired what prompted this action; whether permitted online retailers would become legal non-conforming uses; and whether the action they make work effect any current business.

Development Services Director explained that the concern initially arose from code enforcement complaints regarding the subject uses downtown; stated that clarification would need to be sought regarding the operational characteristics of existing, legally established businesses that may be affected by the amendment before any determination on amortization would be made; and explained that uses present that were not established legally could be addressed right away.

Senior Planner Winter stated the amortization period for a commercial use within a commercial zone is 10 years.

Chair Aspinall opened the public hearing.

Tammy Rapp, President of the Downtown Merchants, spoke in support of the item and believes storage and internet businesses should be discouraged in the downtown. Rapp confirmed there are businesses listed as retail uses with locked storefronts and do not sell anything.

There being no other remote or in-person speakers, Chair Aspinall closed the public hearing.

Deputy City Attorney Maldonado stated for the item to move forward, the Planning Commission would need to have would need to have affirmative votes from the majority, which is a minimum of four affirmative votes.

Chair Aspinall clarified the Planning Commission's decision is not final and is a recommendation to City Council.

It was moved by Commissioner Caldwell, seconded by Commissioner Mayer, and carried on a vote of 7-0 to approve recommending that the City Council approve Specific Plan Amendment No. 22-0001.

B. GENERAL PLAN AMENDMENT NO. 21-0001 AND ZONE CHANGE NO. ZC-21-0001.

Project Description: The proposed project would amend the General Plan Land Use Designation and Zoning Designation of four (4) existing lots, located east of 1st Avenue and west of 2nd Avenue, approximately 170 feet north of 7th Street, which includes the following parcels: APN: 1047-072-22 (371 S. 2nd Avenue), APN: 1047-072-23 (381 S. 2nd Avenue), APN: 1047-072-04 (378 S. 1st Avenue) and APN: 1047-072-05 (370 S. 1st Avenue). The General Plan Land Use Designation is proposed to be changed from Office/Professional (OP) to Single-Family Residential Medium (SFR-M) (4-10 du/ac), and the Zoning Designation is proposed to be changed from

Office/Professional (OP) to RS-7.5 Residential Single-Family Medium. (Staff Planner: Joshua Winter)

CEQA Determination: This General Plan and Zoning amendment is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.), pursuant to State CEQA Regulation §15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)), the common sense exemption covering activities with no possibility of having a significant effect on the environment.

Applicant(s): For APN: 1047-072-05; Leon Carter, 322 W. 22nd Street, Upland CA, 91784.
For the other Parcels: City of Upland, 460 North Euclid Avenue, Upland, CA 91786.

Appeal Period: There is no appeal period, the Planning Commission's decision is a recommendation to the City Council.

Senior Planner Winter presented the staff report and supplemental memorandum outlining revisions to the resolutions, along with a PowerPoint Presentation which is on file in the Development Services Department.

The Planning Commission requested verification that the properties are currently being used as residential, not as commercial uses; and inquired about the zoning of the properties to the south and whether they are on the housing sites inventory list.

Senior Planner Winter provided clarification stating the properties are being used as residential uses only but are currently zoned Office/Professional; and clarified the properties to the south are zoned Office/Professional and are in review or have approvals for office buildings; and that the properties to the south are not included on the housing sites inventory.

Chair Aspinall opened the public hearing.

John Sanchez, 371 S. 2nd Avenue, expressed concerns that the change would limit him from running a business on his property in the future; inquired about whether his property was currently a legally non-conforming use; and asked what the effect on his property taxes would be.

Development Services Director Dalquest confirmed that the existing single family residential use is currently a legally non-conforming in the Office/Professional zone; noted potential complications that can arise with refinancing or insuring legally non-conforming uses; and believed the County would base the tax assessment off of the use, not the zoning district.

Senior Planner Winter explained that getting a home occupation permit would be an available option that would allow a resident to operate a business out of their home in residential zones, but noted that the extent of commercial activity would be limited. He stated in the current Office/Professional zone, converting the property from a residential use to a commercial use would require improvements to the property, such as off-street parking, landscaping planters, accessibility (ADA) upgrades, and potential structural modifications, which he noted may be challenging, given the property's size.

Development Services Director Dalquest asked the Commission to consider whether this area is viable for small offices or whether the highest and best use is residential, given the context of the area.

Senior Planner Winter shared that the subject properties had been zoned Office/Professional since at least 1981.

The Planning Commission inquired about the whether the existing residential uses were subject to an amortization period for being legally non-conforming in the Office/Professional zone; inquired about the process for changing the amortization process; sought clarification on the commercial uses allowed in the Office/Professional zone and whether a Home Occupation Permit could meet the Mr. Sanchez' needs; inquired why the properties to the south were not included in the General Plan Amendment and Zone Change application; and whether Mr. Sanchez's property could be excluded from this action if he objected.

Senior Planner Winer clarified the City has not started the amortization process and that properties have been legal non-conforming for longer than 10 years; and excluding Mr. Sanchez's property would create a potential "spot zoning" issue, that would leave his property as the only Office/Professional zoned property, surrounded by Residential zones on all sides, which would not be ideal.

Development Services Director Dalquest stated that the amortization process can be amended or expanded, pursuant to the provisions of the Municipal Code; explained that the properties to the south were not included within the scope of the General Plan Amendment and Zone Change because the noise level (CNEL) along 7th Street is higher due to additional traffic and the proximity of the Interstate-10 Freeway and would not be appropriate for new residential uses; and confirmed that applications for office buildings have already been submitted and/or approved by the City for these properties.

The Planning Commission asked Mr. Sanchez for his position on the General Plan Amendment and Zone Change application.

Mr. Sanchez stated that he is still considering the benefits and changes with the amendment but noted that it may change his plan for a future business.

Development Services Director Dalquest stated that the Planning Division considers the surrounding uses when they receive an application for a General Plan Amendment and Zone Change, and noted that the change would serve as a positive clean-up to the General Plan land use and zoning maps in this area.

There being no remote or in-person speakers, Chair Aspinall closed the public hearing.

Commissioner Johnson expressed his hope that the vacant properties along 7th Street be considered as candidates for residential development in the future.

Commissioner Staton thanked staff and thought this was a proactive effort.

Commissioner Mayer echoed Commissioner Staton and thought Mr. Sanchez would have time to consider his options before the City Council meeting.

Deputy City Attorney Maldonado called for a five-minute recess at 7:37 p.m.

Chair Aspinall reconvened the meeting at 7:39 p.m.

Commissioner Caldwell stated she needed to recuse herself due to a conflict of interest due to the proximity of property under her husband's ownership and left the dais at 7:40 p.m.

Chair Aspinall reopened the public hearing.

Mr. Sanchez expressed concerns with the existing flow of traffic, and the potential increase through the development of the adjacent properties to the south, and hoped there could be speed bumps considered for Second Avenue in the future.

Chair Aspinall closed the public hearing.

It was moved by Commissioner Mayer, seconded by Commissioner Staton, and carried on a vote of 5-0-2 (Commissioner Caldwell and Johnson abstaining) to approve a resolution recommending that the City Council approve General Plan Amendment No. 21-0001 and Zone Change No. 21-0001.

Commissioner Caldwell returned to the dais at 7:43 p.m.

9. BUSINESS ITEMS – None.

10. PLANNING COMMISSION COMMENTS

Commissioner Marotte thanked the Commission for her first meeting stating it is a pleasure to serve and be on the Planning Commission.

11. ADJOURNMENT

It was moved by Commissioner Mayer, seconded by Commissioner Johnson, and carried on a vote of 7-0 to adjourn the meeting.

At 7:44 p.m., Chair Aspinall adjourned the meeting. A special Planning Commission meeting is scheduled for Wednesday, October 5, 2022, and the next regularly scheduled Planning Commission meeting is Wednesday, October 26, 2022.

SUBMITTED BY



Robert D. Dalquest, Secretary

APPROVED

October 26, 2022